

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ST. LOUIS SYMPHONY ORCHESTRA
Employer

and

Case 14-RC-236036

AMERICAN FEDERATION OF MUSICIANS
LOCAL 2-197
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

¹ In denying review of the Employer's contention that the Regional Director erred in directing a self-determination election in this case, we do not rely on his citation to *Unisys Corp.*, 354 NLRB 825 (2009), a two-member Board decision. See *New Process Steel, L.P. v. NLRB*, 560 U.S. 674 (2010). We also do not rely on his citation to *DTG Operations, Inc.*, 357 NLRB 2122 (2011) and *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB 2015 (2011). See *PCC Structurals, Inc.*, 365 NLRB No. 160, slip op. at 8, fn. 39 (2017). With respect to the Regional Director's analysis of the community-of-interest factors, we find the significance of the librarians' and musicians' similar skills and training to be overstated but, ultimately, we agree that they share a community of interest, especially in light of the high degree of functional integration. We also note, as a secondary consideration, that there does not appear to be an alternative for the librarians' representation with another unit or as a stand-alone unit. Furthermore, we find that the Petitioner's withdrawal of a bargaining proposal, which sought the inclusion of the librarians in the musicians' unit, over twenty years ago is not relevant to whether the petitioned-for librarians and unit musicians share a community of interest sufficient to support a self-determination election.

In denying review of the Regional Director's determination that collaborative or consensus-based assignments do not establish the exercise of independent judgment within the meaning of Sec. 2(11) of the Act, we rely upon *Frenchtown Acquisition Co. v. NLRB*, 683 F.3d 298, 315 (6th Cir. 2012) and *Hosp. Gen'l Menonita v. NLRB*, 393 F.3d 263, 267 (1st Cir. 2004).

Finally, the Employer did not raise its argument that the Librarian possesses the authority to adjust grievances to the Regional Director and therefore it is not properly before the Board. See Sec. 102.67(e) of the Board's Rules and Regulations (a request for review "may not raise any issue or allege any facts not timely presented to the Regional Director").

JOHN F. RING,	CHAIRMAN
---------------	----------

MARVIN E. KAPLAN,	MEMBER
-------------------	--------

WILLIAM J. EMANUEL,	MEMBER
---------------------	--------

Dated, Washington, D.C., March 13, 2020.